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Application Number

09/280,421

Filing Date

March 29, 1999

First Named Inventor

M. Ibrahim Sezan

Art Unit

2623

Examiner Name

Brown, Rueben M.

Attorney Docket Number

7146.0028

ENCLOSURES (check all that apply)☐ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/
Incomplete Application☐ Reply to Missing Parts
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Firm

Chernoff, Vilhauer, McClung & Stenzel, L.L.P.

Signature

Printed Name

Kurt Rohlf

Date

August 20, 2007

Reg. No.

54,405

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August 20, 2007

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	Ibrahim Sezan, et al.	Group Art Unit:	2623
Serial No.:	09/280,421	Examiner:	Brown, Rueben M.
Filed:	March 29, 1999	Customer No.:	55648
Title:	INFORMATION ENHANCED AUDIO VIDEO ENCODING SYSTEM		

APPELLANT'S REPLY BRIEF

Chernoff, Vilhauer, McClung and Stenzel, L.L.P.
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August 20, 2007

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Commissioner for Patents
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Dear Sir:

Please consider the following REPLY BRIEF that is in furtherance of the Notice of Appeal, filed in this case on November 3, 2006, and the APPEAL BRIEF, filed in this case on February 5, 2007.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN THE APPLICATION

There are 29 claims currently pending in the application.

B. STATUS OF ALL CLAIMS

Claims canceled: 9

Claims withdrawn: 31-117

Claims pending: 1-8, 10-30

Claims allowed: None

Claims objected to: None

Claims rejected: 1-8, 10-30.

C. CLAIMS ON APPEAL

Claims 1-8 and 10-30 are on appeal.

A copy of the claims on appeal is set forth in the Claims Appendix to this Brief.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection presented for review are: (1) whether claims 1-8, 10-12, and 15-30 are unpatentable under 35 U.S.C. §102(b) as being anticipated over Wistendahl et al, U.S. Patent No. 5,708, 845 (hereinafter Wistendahl); and (2) whether claims 13 and 14 are unpatentable under 35 U.S.C. §103(a) in view of Wistendahl.

ARGUMENT

REJECTION UNDER 35 U.S.C. §102(b) OVER WISTENDAHL

The Examiner rejected claims 1-8, 10-12 and 15-30 under 35 U.S.C. § 102(b) as being anticipated by Wistendahl. Independent claims 1 and 21 include the limitations of: (i) “providing a descriptive stream separate from said video;” (ii) “including said additional information in said descriptive stream;” and (iii) *wherein said additional information includes executable computer program code . . . [and] is an object depicted by said picture by said pixels.*” The Examiner’s answer to appellant’s brief glosses over the appellant’s argument that the N-data, which the Examiner contends “is” an object depicted by a picture on a computer monitor, does not include executable computer code. *See* Wistendahl at col. 5 line 46 to col. 6 line 14. Rather, the N-data, which is provided in a data stream separate from that of the video, includes nothing more than frame and coordinate mapping information for hot-spots that, in the prior art, were embedded directly into the video stream.

Wistendahl discloses that the functionality of the hot spots is triggered, not by the N-data, but by a program that must be independently and separately running on the client’s computer. *See* Wistendahl at col. 6 lines 15-19 (“In this manner, the objects which are rendered interactive in the original media content are tagged for use in a compatible interactive digital media (IDM) program without embedding any platform dependent codes in the media content.”) Importantly, the N-data, and the IDM program are included in separate data streams, as they *must be*, because Wistendahl’s N-data method is disclosed to be platform independent.

Hence, the N-data does not satisfy the limitations of claim 1 as the N-data does not include executable computer code. The IDM program similarly fails to satisfy the limitations of claim 1 as it is not “an object depicted by said picture.” Nor can the Examiner contend that the

N-data and the IDM presentation *together* comprise the claimed “additional information” because claim 1 requires the “additional information” to be inserted in *a* descriptive stream separate from said video.” (emphasis added). Finally, the applicant would note that Wistendahl actually *teaches against* the combination argued by the Examiner; since the N-data, i.e. the object mapping information that the Examiner contends is an object in a picture, must be independent of the platform and the particular IDM program that is functionally triggered by the hotspots, one of ordinary skill in the art would be drawn away from a method claim for providing additional information in a data stream, separate from that of the presented video, that is both the object (i.e. hotspot) and the executable computer code implementing the hotspot. This is because the N-data is taught to be interchangeably used with any one of multiple IDM programs, where the content provider of the N-data and the frame data may not even know which particular one is being used.

Therefore, each of independent claims 1 and 21, as well as their respective dependent claims 2-8, 10-12, 15-20, and 22-30, patentably distinguish over the cited prior art, and the Examiner’s rejection of these claims should be overturned.

REJECTION UNDER 35 U.S.C. § 103(a) OVER WISTENDAHL

Dependent claims 13 and 14 respectively depend from independent claim 1 and are patentably distinguished over Wistendahl for the same reasons as is independent claim 1. Therefore, the Examiner’s rejection of claims 13 and 14 should also be overturned.

CONCLUSION

The Examiner's respective rejections of claims 1-8, and 10-30 should be reversed, and the claims should be found patentable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt" followed by a stylized, wavy line.

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